

# SUPREME COURT REQUIRES GOVERNMENT TO CONSULT PARLIAMENT BEFORE TRIGGERING ARTICLE 50



In its judgment handed on 24 January, the Supreme Court has, by a majority of 8 to 3, upheld the decision of the High Court on 3 November, requiring the Government to obtain the consent of Parliament before triggering Article 50 and the UK's withdrawal from the EU.

As anticipated, the Supreme Court was not persuaded by the Government's argument that it was entitled to trigger Article 50 under its prerogative powers.

While this is in theory an interesting decision of constitutional law, and an opportunity to understand the interplay - under Britain's famously unwritten constitution - between the executive, the legislature and the judiciary, its practical effect on the UK's departure from the EU is likely to be limited.

The majority of Conservative and Labour MPs, most of whose constituents will have voted to leave, are unlikely to want to be seen to be thwarting the democratic will of their voters by opposing the Bill to trigger Article 50. Some may have their own Edmund Burke moment (exercising their personal judgment rather than giving effect to the wishes of their constituents), but probably not many. SNP and Liberal Democrat MPs are unlikely to support it, but the arithmetic is against them.

The House of Lords may seek to delay matters and both peers and MPs may introduce amendments, e.g. requiring the Government to put its negotiating cards on the table in advance. If such amendments find their way into the Bill, they could undermine the UK's position in the negotiations.

But otherwise, in practical terms, the litigation is likely to prove to have been an interesting legal sideshow with little or no impact on whether or not the UK triggers Article 50, on the negotiations with the EU, or therefore on the final terms of settlement.

## More information on Brexit

Addleshaw Goddard continues to produce a number of materials relating to Brexit which are published on our [Brexit Box](#).

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